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COMMUNITY RESOURCES FOR RELIEF FOR STRIKERS AND THEIR FAMILIES

*A Study of the Policies and Practices of
Representative Public and Voluntary
Social Welfare Agencies*

Division of Social Research

NATIONAL CIO COMMUNITY SERVICES COMMITTEE
1776 BROADWAY

New York 19, N. Y.

January 1946

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PREFACE

The Division of Social Research wishes to express its appreciation to Miss Muriel Steeves, who was directly responsible for preparing the basic material of the study, and to members of the faculty of the New York School of Social Work who gave her much valuable advice in its preparation.

Gratitude is also due Howard L. Russell, Director of the American Public Welfare Association; Marion Hedges, Chief, Labor Information Section, Social Security Board, Federal Security Agency; Margaret Wead, Director, Information Service, Family Welfare Association of America; Commissioner Donald McMillan, National Secretary, Salvation Army; Lyman S. Ford, Director of Health and Welfare Planning, Community Chests and Councils, Inc.; representatives of the American Red Cross and of other national and local welfare agencies who gave generously of their time and counsel to Miss Steeves and the Division.

Robert L. Kinney, Director
Division of Social Research
NATIONAL CIO COMMUNITY SERVICES COMMITTEE

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I

INTRODUCTION

Purpose of the Study

This material has been prepared for the use both of union leaders and welfare workers in public and private social agencies, at a time when organized labor's fight to keep wages in line with the cost of living is being opposed by major sections of American industry with such unyielding arrogance that hundreds of thousands of American workers have been forced to resort to their traditional and legal weapon of the strike.

CIO men and women contribute many millions of dollars every year to the support through taxes and voluntary contributions of federal, state and local public and voluntary assistance, relief and social welfare programs. It is their right when they and their families are in vital need of such services and assistance that they should be granted them.

In the past, during strike situations, this principle of granting relief and services on a basis of need was not always observed, and it seemed to the National CIO Community Services Committee appropriate at this time to examine present policies and indications of practice on the part of the agencies.

The right of workers to organize, to bargain collectively with their employers on questions of wages, hours and conditions of work and to strike is upheld by law and the principles of our democracy. Similarly, the right of citizens in need, regardless of the cause of that need, to the assistance and services of agencies supported through mandatory taxes and voluntary public contributions is upheld by the accepted principles of public welfare and social work, as the following pages show.

Similarly, despite the backward and discriminatory state legislation inspired by industrialists, a worker has a right to expect that exercising his legal right to strike when management refuses to bargain in a fair spirit will not deprive him of unemployment compensation benefits. As is pointed out in Section III, Unemployment Compensation, herein, the federal government compensates corporations handsomely for

the periods of plant idleness and, in effect, pays strike benefits to industry out of public money, a not insignificant part of which is contributed by America's 15 million union members.

In following out the principles concerning the granting of assistance, relief and services on a basis of need which they have evolved through years of experience, public and voluntary social welfare leaders may have to withstand vicious attacks from reactionary and anti-labor forces. However, the quality of leadership in social welfare has so improved and the profession as a whole has so advanced in recent years that it is now possible to believe that welfare administrators and social workers generally will strongly resist the influences aroused to prejudice the case of union members and their families who are forced on strike by corporate greed and selfishness.

II

BASIC PRINCIPLES DETERMINED AS FINDINGS IN THE STUDY

1. Collective bargaining is a law of the land and the strike is a legal process.
2. An individual in need has a right to relief regardless of the cause of his need.
3. Relief for those in need because of a breakdown in the economic system is the rightful responsibility of government.
4. Private agencies will help when there are no other resources available. In the circumstances with which this study deals, however, their main efforts should be directed toward getting public agencies to meet their responsibilities for maintenance relief, though their supplementary services, mainly of a non-relief character, should be extended equally on a basis of need and without discrimination.
5. Organized labor is recognized as a responsible community organization and has assumed its rightful place in the community leadership.

III

COMMUNITY RESOURCES FOR RELIEF

With special reference to assistance for persons on strike

A. Unemployment Compensation Benefits

Unemployment compensation benefits are administered under state laws established under the Federal Social Security Act. All state laws conform to certain requirements of this Act. Under the Social Security Act the cost of administration of the state program is paid in full by the federal government. The Act, however, establishes only minimum controls over either administrative or substantive provisions of state laws.

Since all states have unemployment compensation laws which conform to the Social Security Act, they necessarily include what is now known as the labor standards provision of the Act. This provides that, "Compensation shall not be denied in such state to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

1. If the position offered is vacant due directly to a strike, lockout or other labor dispute
2. If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality
3. If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization."

In essence, the worker to be eligible for unemployment compensation benefits is expected to be available for employment and willing to accept referral to a job providing acceptable standards of working conditions.

With specific reference to the eligibility for benefits when a worker is unemployed because of a strike, there is considerable variance in state laws and in their interpretation and administration. Although no state law specifically disqualifies a person on strike or one who has been out on strike, all states disqualify workers who are unemployed as the result of a labor dispute. The interpretation of the term labor dispute varies considerably from state to state. It is important to note that the conditions and periods of disqualification for unemployment compensation also vary according to state laws. Thus, individual state laws, their interpretation, and the policies of the agencies administering the laws should be carefully studied.

For instance, about half of the states disqualify an individual for any week of unemployment due to stoppage of work existing because of a labor dispute where the individual was last employed. In the others there may be a disqualification for any week in which the worker's unemployment is due to a labor dispute in active progress. Since under both of these a determination must be made as to whether a labor dispute exists, the importance of administrative responsibility for interpretation and policy making is significant.

In only five states is there a limited period of disqualification where the person's unemployment is due to a labor dispute. After this period of disqualification is over, benefits become payable. Louisiana pays benefits after 3 weeks

of disqualification; Tennessee after 4 weeks; Pennsylvania after 5 weeks; New York after 7 weeks; Rhode Island after 8 weeks.

There are also in many of the states various conditions under which disqualification does not apply. In the appendix of this study is included a detailed comparison of state unemployment compensation laws and their variations.

It has been ruled recently that World War II veterans are not eligible for unemployment compensation benefits under the G.I. Bill of Rights where unemployment is due to a labor dispute at their place of employment. The G.I. Bill lists among disqualifications for benefits the following:

"If it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was employed, provided he is participating in, interested in, or belongs to a class of workers who are participating or are directly interested in the dispute."

In a radio forum discussing the question: "Should Strikers Receive Unemployment Benefits?" the spokesman for the affirmative stated in part:

"It is not fair to deprive strikers of unemployment insurance. Every great industrial state in the union either deprives strikers altogether of benefits or puts so many qualifications upon benefits as to make them virtually non-existent. This is unfair for three reasons; all of them were illustrated in the General Motors strike:

- "1. The strike itself is legal even under the federal law which was meant to curb strikes.

- "2. Workers have contributed directly to unemployment benefits by deductions from their wages and are entitled to them in their time of need.¹
- "3. The General Motors or any other great corporation in the event that the strike deprives it of profit is eligible to very great relief from the federal treasury through the Carry-over and Carry-back provisions of the federal tax on profits. A case can be made for these arrangements in time of reconversion, but it is monstrously unfair that the government which is to say the mass of the people, should pay what are, in effect, strike benefits to a mighty corporation, a corporation which proverbially lacks not only a soul but a stomach, while striking workers who have families to feed are wholly dependent on their own savings. This inequality of treatment does not make for industrial justice or industrial peace."

B. Public Welfare Agencies

It is a well-established principle that persons who are in need because of unemployment and not eligible for unemployment compensation benefits are the responsibility of public welfare agencies.

The responsibility of government "to promote the general welfare" of its people is expressed in the Federal Constitution and in the constitutions of many states.

1 Even where the worker does not contribute directly to unemployment insurance funds, it is common business practice to charge unemployment insurance taxes to the costs of production. Since such costs are added to the final price of the product, the worker as consumer does contribute, even if indirectly, to state unemployment insurance funds.

Public relief is recognized as a right of people in need, and their worth and dignity as human beings is upheld in principle. During the 1930's it became clear that, "....government, local, state, and Federal, had a direct responsibility for the welfare of all its people and a direct interest in what happens to the individual. Each person in need had a right to share in the provision made by the government to meet the ravages caused by the breakdown of the American economic system. Because of this right an applicant for public relief incurred no stigma, asked no favor, and was expected to express no gratitude his eligibility was to be determined impersonally in the light of legal requirements, available funds, and fairness to others who were also in need of assistance."¹

Edith Abbott came to the conclusion, after a study of relief laws and legal opinions, that there exists a legal right to relief and that this right is mandatory.² However, she points out that this right cannot be enforced when there are no funds available for relief. Individuals who are eligible for the special federal participating categories of assistance, such as Old-Age Assistance, Aid to Dependent Children, and Aid to the Blind, administered by states under the Social Security Act are protected in their right to relief through the machinery of fair hearings. However, the programs of general

1 Brown, Josephine C. : Public Relief 1929-39
Holt, 1940

2 Abbott, Edith: "Is There a Legal Right to Relief?"
Social Service Review, June 1938..

assistance which are financed and administered through the states and locally and in which the federal government no longer participates do not generally give this security of fair hearing.

During the depression, the responsibility of public agencies to provide relief was further emphasized by the dawning recognition on the part of private agencies that they could neither finance nor staff a program which would meet fully the needs of the unemployed. For many years private social work had been reluctant to recognize an ever-increasing growth of public agencies in the social welfare field and insisted that the meeting of human needs was their prerogative. But by 1929 a group of progressive social workers began to speak out in affirmation of the "collective responsibility for the inadequacies of a badly functioning economic system" and to point out that public provision for persons in need was "socially mandatory."¹

In the next few years, faced by the stark reality of the depression, private welfare could not in the area of finances alone even pretend to meet the needs of the people. During this period, "labor and the friends of labor became strong advocates of public assistance as a means of rescuing thrifty working men from demoralization at the hands of sentimental almsgivers."²

1 Rubinow, J.N. : "Can Private Philanthropy do it?"
Social Service Review, September 1929.

2 Feder, Leah Hannah: Unemployment Relief in Periods of Depression: A Study of Measures Adopted in Certain American Cities, Russell Sage, 1936.

The place of public welfare in the relief and family welfare field is vividly outlined in a study made 1940 by the Children's Bureau of the U. S. Department of Labor.¹ This study showed that in that year ninety per cent of the per capita expenditures, including all community welfare programs, was provided from public rather than private funds. In relief and family welfare, ninety-six per cent of the per capita expenditures was spent by public departments of welfare.

During the years 1941 and 1942 there was some change in these percentages. Expenditures by private agencies increased. This, however, was probably due to the increased activities of agencies directly related to the war, such as the U.S.O. and the Red Cross. But even with this increase in private activity, 91.5 per cent of the expenditure for family welfare and relief in 1941 and 1942 was made from public funds.

In spite of this large per capita percentage of expenditure from public funds to meet human needs, the adequacy of grants and the strength of welfare programs is still very uneven throughout the country. The federal government no longer participates in a general assistance program, leaving this responsibility to state and local governments. Formerly, the federal government had assisted localities to meet the needs of the unemployed and persons otherwise ineligible for the special categories through the FERA and later the WPA.

1 Community Welfare Picture in 34 Urban Areas, U.S. Dept. of Labor Children's Bureau, 1940

In only a few instances do the state governments assume either administrative or supervisory responsibility for any general assistance program. Thus actual operation of the programs where they exist is a direct responsibility of the local city, town, or county unit. In the Children's Bureau Survey referred to previously, it was found that only 23 per cent of the per capita expenditures in the public assistance program was for general relief, while 77 per cent went to the three programs of OAA, ADC, and AB in which there is federal participation.

There is also a wide variance in average monthly grants throughout the country in all categories of public relief. A study of the statistics of August, 1945 issued by the Bureau of Public Assistance, Social Security Board shows, for instance, in Old-Age Assistance monthly average grants ranging from \$11.47 in Georgia to \$49.25 in Washington; a range in Aid to Dependent Children from \$21.65 in Kentucky to \$91.84 in Washington; and in Aid to the Blind from \$13.02 in Kentucky to \$53.44 in Washington.

It is the general assistance programs which have the most significance to the unemployed in need of relief. Statistics compiled by the Bureau of Public Assistance for August, 1945, from material submitted voluntarily by state agencies, reveal that in most states adequate funds for general relief have not been appropriated and coverage is shockingly inadequate. In Texas, for instance, only four counties have funds or provisions for general assistance. We find here a

range in monthly average grants from \$8.30 in Mississippi to \$50.53 in Washington, with \$29.71 as the average grant.

During the war years, general relief case loads were reduced to a minimum. People proved that given an opportunity, they much preferred work to relief. But administrators of public welfare agencies are watching indications of employment and family income trends in the post-war period as they may affect relief loads.

In the past ten years, some precedent-setting policies have been developed on the national level and in some states in respect to relief for persons in need because of unemployment due to strikes. In effect, the following principles have received widespread acceptance on the part of public welfare leaders:

1. An individual in need has a right to assistance regardless of the cause of his need.
2. Public agencies should maintain a neutral position in labor disputes.
3. It is the responsibility of government to care for those who are in need as a result of the ill-functioning of our economic system.

In July, 1933 the Federal Administrator of FERA stated in reference to a question raised in Montgomery County, Pennsylvania.

"The FERA is concerned with administering relief to the needy unemployed and their families. Each case applying for relief to the local emergency relief agencies should be treated on its merits as a relief case wholly apart from any controversy in which the wage earner may be involved.

"The FERA will not attempt to judge the merit of labor disputes. State and Federal agencies, as well as courts, exist which are duly qualified to act as arbitrators and adjusters in such disputes.

"Unless it be determined by the Department of Labor that the basis for the strike is unreasonable and unjustified, the FERA authorizes local relief agencies to furnish relief to the families of striking wage earners after careful investigation has shown that their resources are not sufficient to meet emergency needs."¹

In 1941, the official policy of the WPA was that a neutral policy in all disputes between employees and employers in private industry should be maintained and that workers should not be denied employment on projects for refusing to take jobs where employees were locked out or on strike.²

There were several reactions on the state levels to this policy. The Georgia agency said it would certify persons to WPA persons who could be employed in places open despite the strike situation. The Federal agency then refused to uphold "a certification procedure discriminatory against any person or group of persons." California stated in rebuttal that its policy was to contact the individual's last employer and if a job was available, need on the part of the individual did not exist.. Washington state said, "the problem of those out of work as a direct result of the strike is not a problem of unemployment."

1 FERA: Monthly Report, July 1933.

2 Howard, Donald S. : The WPA and Federal Relief Policy

A joint statement of representatives of the National Catholic Welfare Conference, the Central Conference of American Rabbis, and the Federal Council of Churches said in part in reference to assistance for persons in need who are unemployed because of strikes, "...hunger should not be allowed to become the arbiter in industrial conflict."

There is evidence today that on the national level in both the private and public relief fields, there is a desire not to have the question of relief to strikers presented as a special issue of policy determination, but rather to emphasize the precedents and policies established during the past ten to fifteen years. A national public welfare leader points out that, "The insistence on the basic principle that relief be made available to persons who are in need certainly covers the situation, and if that basic idea can be maintained, it is unnecessary to raise any question in regard to strike situations except in the area of administrative rule and procedure and that is far better handled in relation to a particular situation."¹

The experience of the public agencies in Detroit and Flint during strikes in 1937 demonstrated that human need and suffering regardless of the cause had to be met and that the public agencies had to carry out this responsibility.

1 Reply to a query on the subject sent to leaders in public and voluntary welfare activities, November, 1945.

The public agencies had to meet two problems created by the greatly increased case load. These were (1) a need to streamline intake policies and practices and (2) a need for deficiency appropriations to make sufficient funds available. In Detroit a cooperative arrangement was worked out with the UAW-CIO whereby the welfare committee of the union screened applicants for relief and made referrals to the public department. The department accepted the union's information and, after an intake interview, granted relief without a home visit. It was found that the preliminary investigations by the union were reliable and the estimates of need were generally accurate.

Many public welfare agencies have prepared themselves for meeting increases in relief loads anticipated at the end of the war; others have made little effort to plan or to anticipate possibly severe state and local needs. Detroit had a plan prepared in advance to meet emergency situations, and this has been put into operation during the General Motors strike of 1945-46. It is significant to note that the plan eliminates home visits for handling the cases in need because of unemployment, and delegates to the intake interviewer the responsibility of determining eligibility for assistance.

The experience in Flint in 1937 showed a need also to speed up the intake process and to supplement staff by the loan of workers from state and local private and public agencies. Flint accepted the assumption that "relief workers, like doctors who care for those hurt in riots, are professionals whose one job is to give relief where it is needed."

From the results of interviews with several national public welfare leaders, it would seem that in general public welfare's position on the question of relief to strikers will shape up as follows:

1. Relief is given to those in need regardless of the cause of need.
2. The question of whether or not a person is on strike should not be considered in establishing his eligibility for assistance.
3. The general assistance program is admittedly uneven throughout the country. In many areas none exists and in others, the program is inadequate. Federal aid for general assistance of the state and local levels is necessary to remedy this unevenness and provide ample funds to meet general assistance needs.
4. Public welfare administrators locally will expect help in answering the following questions being raised by the public in relation to relief for persons on strike.¹

1 The answers to these questions are generally well known to those who have some understanding of the nature of trade unions and are not primarily biased against the labor movement. Trade unions, and especially those affiliated with the CIO, do not have large reserves and what funds are available must be spent most carefully during critical periods such as strikes. Starvation should not under the democratic system be the penalty for exercising a natural and legal right. Workers, like other citizens, pay taxes in order that their federal, state and local governments can provide any citizen with vital services and assistance at such a time as they may need them.

As for (e) on next page, surveys show that war bonds represent practically the only savings workers have been able to make during the war, and the increasing reductions in take-home pay following V-J Day have forced many workers to sell some of these. And a worker, who has been employed steadily for four years during the war, and has put 10 per cent of each week's paycheck into bonds has the equivalent of less than five months salary in savings, even if he has been able to hold all his bonds in reserve.

Included in the Appendix is a statement by Marion Hathway, a leading authority on public welfare, covering the issues these questions raise.

- a. If unions decide to call out their members on a strike, why should they not assume responsibility for meeting their needs?
 - b. Employers not affected by strike conditions may have jobs open for labor. Should a striker be asked to assume responsibility for his needs by taking work elsewhere?
 - c. In giving assistance to strikers does public welfare subsidize strikes?
 - d. How can relief standards be maintained?
 - e. Do workers have enough in savings and in bonds to meet their own needs?
5. Public welfare administrators will need help in meeting emergency situations in the area of financing and staffing, especially if case loads increase rapidly.

C. Private Family Agencies

Since the establishment of the Social Security Act and the acceptance of the philosophy of government responsibility for the support of those in need, private welfare agencies have increased emphasis on the "service" aspects of their programs and have grown further away from relief programs.

Cora Kasius in "A Review of Relief Practices" said:

"Although public programs have developed unevenly in different localities, the concept of governmental responsibility for covering maintenance needs has come to be an accepted principle of community planning. Private family agencies in the past decade have assumed different kinds and degree of responsibility for relief in various communities, depending largely on the availability of public resources to meet existing needs."¹

1 Relief Practice in a Family Agency, Family Welfare Association of America, 1942.

1. The first step is to identify the problem.
2. The second step is to define the objectives of the study.
3. The third step is to design the study.
4. The fourth step is to collect data.
5. The fifth step is to analyze the data.
6. The sixth step is to interpret the results.
7. The seventh step is to draw conclusions.
8. The eighth step is to communicate the findings.

3. Methodology

The methodology of the study is based on the following principles:

- 1. The study is based on the collection of data from a representative sample of the population.
- 2. The data is analyzed using statistical methods.
- 3. The results are interpreted in the context of the research objectives.
- 4. The findings are communicated to the relevant stakeholders.

The study is based on the following assumptions:

- 1. The data is accurate and reliable.
- 2. The sample is representative of the population.
- 3. The statistical methods used are appropriate for the data.
- 4. The findings are valid and reliable.

Private agencies have considered themselves as doing a demonstration job in a community on a limited and selective basis in order to meet needs in areas of service other than financial where the public agency has not assumed their more extensive responsibilities.

The Committee on Current and Future Planning of the Family Welfare Association of America has stated the basic relief policies of private family agencies as follows:

1. Basic maintenance relief is the responsibility of governmental agencies, and private agencies should resist pressure for the assumption by them of basic community relief.
2. Tax funds should be administered by governmental agencies. Therefore, private agencies should not accept subsidies from tax funds granted with the expectation that the private agency will carry part of the relief responsibility.
3. A category for general public assistance should be added to the other federal relief categories.
4. Private agencies in each community should give the strongest possible support to the development of high standards of practice and personnel in local departments of welfare.
5. Private agencies in each community should give support to federal planning for an adequate social security program.

In respect to the position of the private family agencies on granting assistance to strikers, here again, as in the public welfare field, there is a desire to have assistance and service determined on the basis of the need which the individual presents rather than on the basis of what has caused the need. The national private agencies have answered specific requests on this question from some of their local affiliates in the

past. The private family agencies would consider that relief to strikers should be primarily the responsibility of the public agencies, but they should try to meet needs in a strike situation when other community resources proved inadequate. Assistance should not be denied a person only on the grounds that he is on strike.

It has been emphasized, however, as stated by the Committee on Current and Future Planning mentioned above, that in respect to policy, private family agencies, "rather than dissipate their resources in a futile attempt to relieve economic distress, (they) have preferred to utilize their particular skill and knowledge in helping individuals and families to overcome difficulties which otherwise might impair their efficiency and independence."

Cora Kasius has given further interpretation of this policy in her article as follows:

"Whether the financial need should be met by the private agency is dependent, not only on the practical considerations of the agency's resources and functions, but on (1) the evaluation of the need, (2) the availability of other resources to meet the need, (3) the treatment value of utilizing relief in relation to total case work objectives."¹

Private agencies will take into account the part of the community's economic need that is unmet by public agencies. They do, however, believe that pressure should be brought to bear to have the public agencies assume their full responsibility in this area.

1 Ibid

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As in the public field, the standards, policies, and practices of local private agencies vary widely from community to community.

D. Other Private Agencies

1. The Salvation Army

In answer to a specific question as to its policy on granting relief to persons on strike The Salvation Army stated:

"In the present emergency, as in all such, this and other groups may depend upon The Salvation Army to meet their spiritual and material needs solely on the basis of human need and regardless of group affiliation, race, creed or color, The Salvation Army to the limit of its resources will render such aid."

2. The American Red Cross

In both its programs for civilian disaster and for services to veterans, the national policy of the American Red Cross can be so interpreted as to cover the granting of assistance to persons on strike. In stated Red Cross policy, it is emphasized throughout, however, that it is expected that other community resources where existing will be used. Thus:

"It is not intended that Red Cross chapter funds will be used in lieu of resources already available from other agencies."

In the American Red Cross manual on Disaster Preparedness and Relief, Chapter IV, Section I, Administrative Policies, Item I-21, the following policy is stated:

"When distress is caused by economic maladjustments which include the usual hazards of industry and agriculture, responsibility for relief rests upon the entire community. When there is suffering and want from any cause and the fundamental needs are not being met, chapters may participate in community action in extending relief."

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With specific reference to veterans and their families the American Red Cross recently broadened its policy in respect to financial assistance on the insistence of local chapters. According to the new policy, chapters may grant financial assistance to any veteran and his family if in need, during the period he is adjusting to civilian life. It is expected that this period will vary according to individual circumstances.

It is well known that the National Red Cross is dependent for its existence on the local chapters. The very nature of its organizational structure and fund-raising program makes this inevitable. The National Red Cross seems to take no position on the specific problem of giving relief to strikers, either civilians or veterans. Some of the difficulties which unions have met in the past in obtaining assistance from Red Cross for workers have been due to the negative interpretation of policies by the agency. The attitudes of the members of local boards of Red Cross chapters influence considerably the action which local chapters take in this situation, and there is considerable doubt that the national leadership will implement a widespread liberal interpretation of policy.

APPENDIX

1. *Comparison of State Unemployment Compensation Regulations Relative To Definitions of Industrial Disputes
2. Public Assistance and Industrial Disputes
Marion Hathway, Professor of Public Welfare,
University of Pittsburgh

* On page 2 under (8) add: Pennsylvania-----Sec. 402
(d)

Comparison of State Unemployment Compensation Laws

1945

9564. Labor Dispute (51)

Workers who are unemployed as the result of a labor dispute are disqualified under all State laws.

A. Conditions and periods of disqualification:

- (1) Disqualified for any week of unemployment due to stoppage of work existing because of labor dispute where individual last employed (32):

Arizona <u>1</u> /-----sec. 56-1005 (d)	Montana-----sec. 5 (d)
Arkansas-----sec. 5 (d)	Nebraska-----sec. 48-628 (d)
Colorado <u>2</u> /-----sec. 5 (d)	New Hampshire-----sec. 4 D
Delaware-----sec. 5 (d)	New Jersey-----sec. 43:21-5 (d)
Georgia <u>3</u> /-----sec. 5 (d)	New Mexico-----sec. 57-805 (d)
Hawaii-----sec. 5 (d)	North Carolina-----sec. 96-14 (d)
Illinois-----sec. 7 (d)	North Dakota-----sec. 52-0602.4
Indiana <u>4</u> /-----sec. 7 (f) (3)	Oklahoma-----sec. 215 (d)
Iowa-----sec. 1551.11 D	South Dakota-----sec. 17.0830 (4)
Kansas-----sec. 44-706 (d)	Texas <u>6</u> /-----sec. 5 (d)
Maine-----sec. 5 (d)	Utah <u>7</u> /-----sec. 42-2a-5 (d)
Maryland-----sec. 5 (d)	Vermont-----sec. 5 (d)
Massachusetts-----sec. 25 (b)	Virginia <u>8</u> /-----sec. 5 (d)
Michigan-----sec. 29 (c)	Washington-----sec. 77
Mississippi <u>5</u> /--sec. 5 (d)	West Virginia ---art. VI, sec. 4 (4),7
Missouri-----sec. 9431 (II) (a)	Wyoming-----sec. 5 B II

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- 1/ "Labor dispute, strike, or lockout" instead of "labor dispute" only.
2/ "Strike" instead of "labor dispute."
3/ Specifically provides that disqualification ceases with cessation of stoppage and resumption of operations.
4/ Also provides that an employee is disqualified if he has voluntarily stopped work on a sympathy strike.
5/ An unjustifiable lockout not to be deemed a labor dispute, unless the lockout was caused by the individual acting alone or with other workers in concert.
6/ "2-week benefit period," instead of "week."
7/ "Strike" instead of "labor dispute."
8/ And reduction of benefit duration by number of weeks of disqualification is mandatory.

9564. Continued (2)

- (2) Disqualified for any week of unemployment due to labor dispute in active progress where individual last employed (8):
- | | |
|---|----------------------------------|
| Alabama <u>1</u> /-----sec. 214 A | Idaho-----sec. 43-2409 (c) |
| California <u>2</u> /-----sec. 56 (a) | Nevada-----sec. 5 (d) |
| District of Columbia <u>3</u> /-sec. 10 (f) | Oregon-----sec. 126-705 (d) |
| Florida-----sec. 6 D | South Carolina--sec. 7035-85 (d) |
- (3) Disqualified for any week of unemployment due to labor dispute where individual last employed (2):
- Alaska-----sec. 5 (d) Connecticut-----sec. 1339e (b) (3)
- (4) Disqualified for any week of active progress of labor dispute in establishment where individual is or was employed if he lost his employment because of such dispute (4):
- Kentucky 4/-----sec. 341,360 (1) Ohio 5/-----sec. 1345-6 (d) (1)
- Minnesota-----sec. 268,09.1 (b)F Wisconsin 6/--sec. 108.04 (10)
- (5) Disqualified for limited period of unemployment due to labor dispute in active progress where individual last employed (2):
- (a) Not over 4 weeks (1):
- Tennessee-----sec. 5 (d)
- (b) Not over first 3 weeks (1):
- Louisiana-----sec. 4 (d)
- (6) Accumulation of benefit rights is suspended for a period of 7 consecutive full weeks beginning with the day after individual lost his employment because of a strike, lockout or other industrial controversy, or until the day after the dispute terminates, if it ends before the expiration of such 7 weeks (1):
- New York-----sec. 504-a (1)
- (7) Disqualified for 8 weeks of continuous unemployment if individual lost employment due to industrial controversy where he was employed (1):
- Rhode Island-----sec. 7 (4)
- (8) Disqualified for any week of unemployment partially or totally within a period beginning on day of voluntary suspension of work resulting from an industrial dispute where he is or was last employed and ending (1) on the last day of the 4th calendar week, or (2) the day on which such suspension is terminated, whichever is earlier

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- 1/ Labor dispute does not apply to a dispute between an individual worker and his employer.
- 2/ If individual left work because of the dispute.
- 3/ "Strike, lockout, or jurisdictional labor dispute" instead of "labor dispute."
- 4/ Lockout not to be deemed bona fide labor dispute. Worker not disqualified unless employer notifies the Commission within 7 days after strike begins.
- 5/ Specifies "labor dispute (other than a lockout)."
- 6/ "Strike or other bona fide labor dispute" instead of "labor dispute."

9564. Continued (3)

B. Conditions under which disqualification does not apply:

(1) If neither individual nor any of his grade or class is--

(a) Participating in, financing, or directly interested in dispute (27):

Arizona <u>1/</u> -----sec. 56-1005 (d)	Montana <u>8/</u> -----sec. 5 (d)
Colorado-----sec. 5 (d)	Nebraska-----sec. 48-628
Connecticut <u>2/ 3/</u> -----sec. 1339e (b) (3)	Nevada-----sec. 5 (d)
Florida <u>4/</u> -----sec. 443.06 (4)	New Hampshire <u>9/</u> sec. 4 D
Georgia-----sec. 5 (d)	New Jersey-----sec. 43:21-5 (
Idaho <u>5/</u> -----sec. 43-2409 (e)	North Carolina-sec. 96-14 (d)
* Illinois-----sec. 7 (d)	Oregon-----sec. 126-705 (
Indiana-----sec. 7 (f) (3)	South Dakota-----sec. 17.0830 (
Kansas-----sec. 44-706 (d)	Texas-----sec. 5 (d)
Maine-----sec. 5 (d)	Virginia-----sec. 5 (d)
Maryland-----sec. 5 (d)	Washington-----sec. 77
Massachusetts <u>6/</u> -----sec. 25 (b)	West Virginia <u>10/</u> art.VI
Missouri <u>7/</u> -----sec. 9431 (II) (a)	sec. 4 (4)
* Iowa-----sec. 1551.11 D	Wyoming-----sec. 5 B II

(b) Participating in or directly interested in dispute (10):

Alaska-----sec. 5 (d)	Mississippi-----sec. 5 (d)
Arkansas <u>11/</u> -----sec. 5 (d)	New Mexico-----sec. 57-805 (d)
District of Columbia-sec. 10 (f)	North Dakota-----sec. 52-0602-
Hawaii-----sec. 5 (d)	4a
Louisiana-----sec. 4 (d)	Oklahoma-----sec. 215 (d)
	Tennessee-----sec. 5 (d)

(2) If individual is not participating in, financing, or directly interested in the dispute, and is not a member of the organization or group responsible for stoppage of work (1):

Rhode Island-----sec. 7 (4)

1/ Also, no disqualification if the dispute was caused by the employer's failure to conform to the provisions of an agreement between employer and employee or of any Arizona or United States law pertaining to wages, hours, or other conditions of work.

2/ "Trade, class, or organization of workers" instead of "grade or class."

3/ Also, no disqualification if unemployment is due to a lockout resulting from demands of the employer.

4/ Payment of regular union dues not to be construed as "financing" any labor dispute.

5/ "Grade, class, or organization" instead of "grade or class."

6/ Payment of regular union dues not to be construed as "financing" any labor dispute.

7/ If other work is secured and lost during existence of dispute, disqualification is terminated if such work was bona fide, was on a permanent basis, and lasted for the major part of 2 weeks.

8/ Also, no disqualification if the strike was caused by the employer's failure to conform to any Montana or United States law pertaining to collective bargaining, hours, wages, or other conditions of work.

9/ Also, no disqualification if the stoppage of work was due solely to failure of the employer to live up to provisions of any contract between him and his employees.

10/ Also, no disqualification in cases where the strike is protesting or where a lockout attempts to force acceptance of wages or working conditions substantially less favorable than those prevailing in the locality and industry, or where rights to collective bargaining are denied.

11/ Also, no disqualification if the dispute was caused by the employer's failure to conform to a trade agreement or any Arkansas or Federal law or where employees are protesting wages, hours, or working conditions which are substandard for the industry and locality. A lockout shall not be deemed a labor dispute.

9564. Continued (4)

- (3) If individual is neither participating in, financing, or directly interested in the dispute, nor a member of a grade or class of workers any of whom are participating or directly interested therein (1):
 South Carolina-----sec. 7035-85 (d)
- (4) If individual is not participating in, financing (except for payment of regular union dues), or directly interested in dispute, and has not voluntarily stopped work in concert with one or more other employees or on sympathy strike. Disqualification does apply if stoppage of work is caused by a stoppage of work due to a labor dispute in progress in another department or establishment of individual's employing unit (1):
 Michigan-----sec. 29 (c)
- (5) If individual is not participating in, financing, or directly interested in the dispute (1):
 Vermont-----sec. 5 (d)
- (6) If strike does not involve and was not fomented by any of individual's grade, class or group of workers (1):
 Utah 1/-----sec. 42-2a-5 (d)
- (7) If individual notifies employer in writing of resignation and acceptance of other employment and resignation is accepted by all parties to the dispute; if unemployment due to lockout or dismissal during period of negotiation prior to strike (1):
 Minnesota-----sec. 268.09.1 (6)
- (8) No provision for exceptions (8):
- | | | |
|------------|----------|--------------|
| Alabama | Kentucky | Ohio |
| California | New York | Pennsylvania |
| Delaware | | Wisconsin 2/ |

1/ No disqualification if the strike was fomented by the employer, or if it was caused by the employer's failure to conform to any Utah or United States law pertaining to wages, hours, or other conditions of work.

2/ Disqualification does not apply unless the employer notifies the agency of a possible disqualification.

PUBLIC ASSISTANCE AND INDUSTRIAL DISPUTES

by Marion Hathway

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In the midst of widespread work stoppage, public welfare agencies are being pressed on the one hand to deny assistance and on the other hand to declare their intent to grant assistance to striking wage earners who are in financial need. According to one viewpoint, it is maintained that the granting of assistance to striking wage earners throws the weight of economic power of public assistance on the side of the union; according to the second viewpoint, withholding assistance from the striker and his family adds the weight of economic power of public assistance to the side of management. Obviously, the public agency cannot ignore the existence of industrial conflict in the community and its impact upon family life. It cannot operate without policy. It can establish policy only after thoughtful exploration of the nature and variety of questions involved.

A very natural approach to these questions is to examine them in the light of principles which are pertinent to living within the framework of American democracy. In the early days of our nation's history, the right to life and liberty was defined as the right of free speech, free press, free worship, trial by jury, freedom from unreasonable search and seizure. In recent years, as industrial and economic changes have taken place, the right of the individual to life and liberty has come to be dependent upon economic security for all, regardless of race or creed or color. What has been termed a "second bill of rights" includes "the right to earn enough to provide adequate food and clothing and recreation, and the right to adequate protection from the economic fears of old age, sickness, accident and unemployment".¹ These two principles have, therefore, become a part of statute law as the right of employees to organize and bargain collectively through representatives of their own choosing and as the right of the individual to assistance when his need is established. The implication of these rights should be weighed carefully by public welfare agencies during the present period.

1 Franklin Delano Roosevelt. Annual Message to Congress, January, 1944.

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In the light of the foregoing, it is evident that the question of public assistance is not a simple one. It is a question which touches the very heart of our democratic system, and on the other hand to declare that the right to public assistance is a right which belongs to every citizen is to strike a blow at the very foundation of our system. It is a question which has been debated for many years, and it is a question which will continue to be debated for many years to come. The question is not whether we should give public assistance, but whether we should give it in a way which will not destroy the very principles which we claim to be defending. The question is not whether we should give public assistance, but whether we should give it in a way which will not destroy the very principles which we claim to be defending. The question is not whether we should give public assistance, but whether we should give it in a way which will not destroy the very principles which we claim to be defending.

A very natural approach to these questions is to examine them in the light of the principles which are fundamental to our system. The principles of our system are the principles of liberty, of justice, and of equality. These principles are the principles which have made our system what it is today, and they are the principles which we claim to be defending. The question of public assistance is a question which touches these principles at their very heart. It is a question which asks whether we can give public assistance without destroying the very principles which we claim to be defending. The question is not whether we should give public assistance, but whether we should give it in a way which will not destroy the very principles which we claim to be defending. The question is not whether we should give public assistance, but whether we should give it in a way which will not destroy the very principles which we claim to be defending. The question is not whether we should give public assistance, but whether we should give it in a way which will not destroy the very principles which we claim to be defending.

The right of employees to organize and bargain collectively through representatives of their own choosing conveys certain guarantees which are implicit if the collective bargaining process is to be effective in our democracy. The policies and procedures in operation under the National Labor Relations Act emphasize the process of negotiation and arbitration by which a settlement of disputes may be affected without work stoppage. If negotiations break down, however, the right of labor to strike is protected and guaranteed by law. As has been stated frequently, the only power in the bargain which the employees hold is their own labor and when all devices for arbitration cease, the withholding of their labor is their recourse. Hence the National Labor Relations Act recognizes striking as legitimate form of concerted activity and confers the right to strike.¹ Likewise the Railway Labor Act states that "nothing in it is to be construed as restricting the right to strike".² A clear understanding of community sanction of the right to strike and its implications is indispensable to the formulation of sound policy concerning the right of the individual to community services and benefits which he seeks when he is exercising his right to strike.

What has been termed the "conditional right to assistance" is recognized through the Social Security Act in a body of principles and procedures guiding the administration of public assistance to aged, to blind and to dependent children. As now defined in the public assistance program, "when the applicant's need is established, his assistance is a matter of right". In our culture pattern the individual has the right and the responsibility to work out his own way of living, freedom to make decisions and to use his income to meet needs as he sees them. According to a recent statement of the Bureau of Public Assistance of the Social Security Board, "It must be borne in mind consistently, that the individual who has lost ability or opportunity for economic independence has lost none of his rights. He retains his right to freedom in regard to plans for living, for spending his income and the assistance check, and maintaining his usual role in the family and in the neighborhood and in the community."³ The meaning of these rights in periods of industrial conflict is clear if the history of developing federal policy in recent years is examined.

In 1933, the Federal Government assumed responsibility for allocating funds to the states to be used to relieve unemployment distress. In 1935 with the passage of the Social Security Act, this emergency program was superseded by a permanent system of grants-in-aid to the states for the purpose

1 National Labor Relations Act, 49 Stat. 449

2 The Railway Labor Act, 48 Stat. 1185

3 Public Assistance Developments Set New Goals for Staff Training;
Technical Training Service, Bureau of Public Assistance,
Social Security Board, January, 1945.

of providing assistance to aged persons, to dependent children, and to blind persons and by temporary work relief program which substituted work projects for direct assistance to the able bodied unemployed. The federal program of Old Age and Survivors Insurance, as it is now known, and federally aided state systems of unemployment compensation completed what we recognize as the present social security system for the protection of the individual against the economic and social risks of present day society. In each of these programs there are rules and regulations and a body of precedent which point clearly to the existence of federal policy concerning the claim or right of the individual to benefit or assistance during the period of industrial conflict. Due to space limitations the public assistance program only will be considered in this discussion.

In July 1933, the Federal Emergency Relief Administration issued a series of rules and regulations covering the administration of relief to individuals among which was the following:

The FERA will not attempt to judge the merits of a labor dispute. Each case applying for relief will be considered on its merit as the relief case, wholly apart from any controversy in which the wage earner may be involved. Unless the National Labor Board of the NRA decides that the basis for the strike is unreasonable and unjustified, the FERA authorizes local relief agencies to furnish relief to the families of striking wage earners who are found to be in need.¹

Subsequently states incorporated the principle in their procedures. An example from the Pennsylvania administration is as follows:

County Boards shall take no part in strikes or other industrial disputes. It is a basic policy of the State Board, that under any or all conditions, emergency relief be given solely on the basis of the actual need of the individual family.²

While deviations from this principle were apparent in certain communities of the United States, the federal policy was generally adhered to throughout the program of the FERA and did much to clarify thinking concerning relation between the administration of relief and labor disputes.³

1 The Chronology of the FERA; Federal Emergency Relief Administration, U.S. Government Printing Office, 1937, p. 22.

2 Pennsylvania Emergency Relief Handbook, Commonwealth of Pennsylvania, State Emergency Relief Board, Harrisburg, Pa., p. 420 (August 1933)

3 Brown, Josephine, Public Relief 1929-39. New York, Henry Holt & Co. 1940, p. 270

In 1935 the Social Security Act substituted the method of grants-in-aid for the establishment of state systems and public assistance to categories of needy aged, blind, and dependent children. Only so far as the federal government has laid down general standards to be met by the states as a prerequisite to federal grants is there any statement of federal policy. The right to assistance under the public assistance provisions of the social security act is specifically described through a body of policy clarified by procedures and letters to the states.

The brief review of practice under federal unemployment relief, and under federal grants-in-aid for establishing public assistance systems gives a clear recognition in the experience of the federal government of need for sound and workable policy. In administering any program of assistance to the individual involved in industrial dispute this is based on procedures designed to determine the eligibility of the individual to the benefit available and distinct from criteria of moral judgments relevant to his behavior.

Administratively, assistance to individuals whose economic need is the result of industrial conflict falls in the area of general assistance, the resource for those whose needs cannot be met as Old Age Assistance, Aid to Dependent Children or Blind Assistance. Occasionally, dependent relatives of the striking wage earner who might not otherwise request assistance become applicants during the period of industrial conflict. Elderly relatives whose support is the responsibility of the striking wage earner may become applicants for Old Age Assistance when the son or daughter is out on strike. A woman with dependent children who is being supported by a brother may become an applicant for Aid to Dependent Children when this brother is involved in industrial dispute and cannot provide for her family. If such relatives dependent upon the striking wage earner become eligible for Aid to Dependent Children or for Old Age Assistance, the applications are easily considered on the basis of individual need and actual resources implied in the principle of family responsibility are not difficult to determine. Such application will fall naturally with the group of applications for the categorical assistances and are subject to general policies governing assistance as laid down by the Social Security Board.

Where, however, the striker is the chief wage earner in the family, the application falls in the category of general assistance which is either state or locally financed. Outside of federal responsibility because federal funds are not made available for general assistance, this program is nevertheless influenced profoundly by the precedent of policy laid down in the federal-state public assistance programs.

In the midst of community pressures during a period of industrial dispute, the public assistance agency faces a dilemma which only clear reasoning can solve, as the following alternatives indicate. Can the agency withhold assistance to striking wage earners but yet to avoid permitting any individual to starve, grant assistance in extreme hardship cases? Can the agency grant assistance to the family of the striking wage earners while withholding it from the wage earner himself? Can the agency withhold assistance from the person who is fomenting or leading others to strike, while making no discrimination against those who are helpless in the situation? Can the agency attempt a distinction between legal and illegal, or between authorized and unauthorized strikes? The answer to each one of these questions is unequivocally "no."

Extreme hardship is need. It is a lack of basic items in the budget and as such is not different from the usual application for assistance. The helplessness of the family in the face of the striker's action may determine assistance to the family, to the exclusion of the striking member, but it is natural and logical that the members of the family will share with the striker, the only difference being that the amount of assistance shared will be less than known minimum needs. There are no established criteria for determining who is "fomenting or leading" a strike. Perhaps the wage earner is not in sympathy with the strike, has voted against it and is going along only for fear of losing his job. There is no method by which the agency can determine these differences and it has no authoritative source to which to turn for the answer. It is impossible to devise a distinction between "authorized" and "unauthorized" disputes that is amenable to successful operation. Implicit in this distinction is a moral judgment which the agency is not equipped to make and implicit in it is the withholding of assistance from the man on strike because he is on strike. Nor can the agency find authoritative sources to make this distinction on its behalf.

The right of the striking wage earner to assistance is inherent in the concept of meeting need. Collective bargaining is now guaranteed by the law of the land and the individual member of the union is acting responsibly and in accordance with statutory approval if he participates in the various steps of the collective bargaining process. This will be true as long as strikes are legal and lawful. If these steps bring a union to the point of calling a strike, it is assumed that negotiations have broken down. At this point and especially as collective bargaining involves the right to strike or cease work, the individual is not deviating from the mores of the community as defined by law, if he ceases to work in order to establish standards of wages, hours, and working conditions. It is, therefore, not incumbent upon the agency to examine whether or

not the strike is "inhibiting reconversion" for example. Intervention is the responsibility of the federal government if a national crisis develops out of the work stoppage situation. Indirect intervention assigns to the public agency the role of coercive agent, a role which is antithetical to its basic purpose.

Democracy is a government "of the people, by the people and for the people". Its philosophy is based upon concern for the common man and in confidence in him. The public social services have developed as a result of this concern and as an expression of confidence. Public assistance, according to a recent statement of the Social Security Board, "must operate consistently in accordance with the basic principles of democracy." Expressed in the public assistance law of Pennsylvania, for example, the purpose of public assistance is "to promote the welfare and happiness of all the people of the Commonwealth, by providing public assistance to all of the needy and distressed promptly and humanely with due regard for the preservation of family life, and without discrimination on account of race, religion or political affiliation."¹

To fulfill the purpose of these statutes, economic need must be met when and where it arises. Eligibility to assistance must be determined by criteria bearing on this need. Subjective judgments concerning the individual's behavior do not belong to the process.

1 Act 197, passed May 21, 1943

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